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*Of Counsel*  
*Sylvia Lesse*

July 14, 2004

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20054

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Federal Communications Commission  
Office of Secretary

Re: CC Docket Nos. 01-92, 96-45 and 95-116  
Notice of Ex Parte Presentations

Dear Madam Secretary:

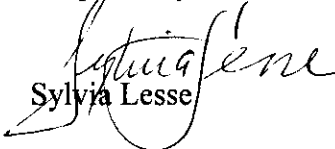
On July 14, 2004, Randy Boyd of Kingdom Telephone Company (Auxvasse, Missouri), Brian Cornelius of Citizens Telephone Company (Higginsville, Missouri), Bob Schoonmaker of GVNW Consulting, Inc. (Colorado Springs, Colorado), Craig Johnson of Andereck, Evans, Milne, Peace & Johnson, LLC (Jefferson City, Missouri) and W.R. England III of Brydon, Swearngen & England (Jefferson City, Missouri) met with the following persons on behalf of Missouri's small rural incumbent local exchange companies:

Commissioner Adelstein and his Special Assistant, Anne Perkins  
Commissioner Martin and his Senior Legal Advisor, Daniel Gonzalez

In each meeting, the Missouri company representatives discussed the issues outlined on the attached handout, which was provided to each participant.

Please refer any questions regarding this matter to the undersigned.

Respectfully submitted,

  
Sylvia Lesse

cc: Commissioner Adelstein  
Commissioner Martin  
Anne Perkins  
Daniel Gonzalez  
(via hand delivery)

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**MISSOURI SMALL TELEPHONE COMPANIES  
EX PARTE PRESENTATION TO FCC**

1. **T-MOBILE'S PETITION FOR DECLARATORY RULING REGARDING  
LAWFULNESS OF INCUMBENT LECS' WIRELESS TERMINATION TARIFFS  
(CC DOCKET 01-92).**

· Telecommunications Act of 1996 and FCC rules envisioned wireless carriers would initiate negotiations with ILECs to obtain local interconnection and/or reciprocal compensation arrangements.

· While wireless carriers pursued negotiations with RBOCs, they did not do so with small, rural ILECs who "subtend" RBOC tandems. Rather, they simply used their connection with RBOCs to send traffic to small ILECs. Thus, wireless carriers obtained "free" termination of their traffic to small/rural ILECs because of these indirect connections.

Wireless carriers have not fulfilled their obligations under the Telecommunications Act of 1996 by establishing indirect interconnection methods without negotiating such arrangements with the small Missouri LECs, nor entering into Reciprocal Compensation arrangements with such LECs.

The "de facto bill and keep arrangements" effectively implemented by the Wireless Carriers by their failure to negotiate Reciprocal Compensation arrangements are not consistent with the Act. The Act allows state PSCs to implement "bill and keep" arrangements when traffic is reasonably balanced. It does not allow for Wireless Carriers, by their inaction, to impose such agreements without carrier or state PSC approval and does not allow them when traffic is widely imbalanced as it is between the Wireless Carriers and small Missouri LECs.

· MoPSC specifically directed wireless carriers not to send traffic to Missouri Small ILECs without first obtaining an agreement to do so.

· When wireless carriers failed to abide by MoPSC's directive, Missouri Small ILECS filed wireless termination tariffs, which MoPSC approved. These tariffs only apply where wireless carriers do not have Interconnection Agreements or reciprocal compensation arrangements with Missouri Small ILECs.

Missouri Court of Appeals affirmed MoPSC's decision to approve wireless tariffs and rejected wireless carriers' claim that these tariffs are inconsistent with, or are preempted by, Telecommunications Act of 1996. Missouri Court of Appeals held:

**"The [wireless] tariffs reasonably fill a void in the law where the wireless companies routinely circumvent payment to the rural carriers by calculated inaction. The tariffs provide a reasonable and lawful means to secure compensation for the rural carriers in the absence of negotiated agreements."**

(Emphasis added)

All major wireless carriers (except T-Mobile) are paying Missouri Small ILECs for terminating wireless traffic in accordance with their Wireless Tariffs or approved Interconnection Agreements.

Many RBOCs (e.g., SBC, Qwest) have had (and continue to have) wireless interconnection tariffs which prescribe rates, terms and conditions for terminating wireless traffic in the absence of interconnection/reciprocal compensation agreements. Sprint Missouri Inc. has now filed its own wireless termination tariff with the Missouri Public Service Commission.

Wireless Tariffs have not prohibited wireless carriers from negotiating Interconnection Agreements or reciprocal compensation agreements with Missouri Small ILECs with lower than tariffed rates. MoPSC has approved Interconnection or Traffic Termination Agreements between Missouri Small ILECs and Verizon Wireless, Sprint PCS, ALLTEL Wireless, Dobson Cellular, Mid-Missouri Cellular Company and Cingular with rates lower than the tariff rates in all cases.

If the FCC does not allow terminating wireless tariffs in the absence of interconnection agreements, then the FCC must enforce requirements for wireless carriers to negotiate such contracts with small ILECs. Rates for such contracts must be expected to be significantly greater than those for RBOCs because of the higher costs for switching and transport in rural areas.

ILEC local calling areas for all calls have been set by state regulatory commissions. FCC should also reaffirm the Mountain decisions that intraMTA landline to wireless traffic outside the ILEC local calling area is toll and subject to presubscription requirements. If the call is between the ILEC and the wireless carrier reciprocal compensation applies per FCC rules. However, if such traffic is carried by an IXC, the call is subject to access charges, not reciprocal compensation since it is between the IXC and the wireless carrier.

## **2. INTERMTA WIRELESS TRAFFIC**

- No one disputes the wireless traffic that crosses an MTA boundary (i.e., interMTA traffic) is “long distance” and subject to access charges.
- Because of the way MTA boundaries cross-section with LATA boundaries in Missouri, there would appear to be a substantial amount of interMTA traffic [see MTA map].
- The summary reports Missouri Small ILECs receive from SBC don’t distinguish between inter- and intraMTA traffic, and wireless carriers say they can’t (or won’t) identify interMTA traffic.
- As a result, Missouri Small ILECs do not receive appropriate access compensation for interMTA traffic, even though all parties agree they should. In fact, wireless carriers, including T-Mobile, have agreed with several Missouri Small ILECs to interMTA “factors” of approximately 50%, indicating that a substantial amount of traffic terminated by wireless carriers is long distance and subject to access charges. T-Mobile has refused to pay even for this admitted long distance traffic.

## **3. SPRINT’S PETITION FOR DECLARATORY RULING REGARDING THE ROUTING AND RATING OF TRAFFIC BY ILECS (CC DOCKET 01-92)(“VIRTUAL NXX”).**

- Wireless carriers seek to establish a local presence in a Missouri Small ILEC’s exchange so landline customers can call wireless customers on a local (i.e., seven digit dialed) basis.
- Wireless carriers obtain an NPA NXX “rate centered” in the Missouri Small ILEC’s exchange.
- Wireless carrier’s facilities, however, are not located in Missouri Small ILEC’s exchange (or serving area) but in RBOC’s or other ILEC’s territory, which may be hundreds of miles away (see MTIA map and Diagram).
- Not simply a matter of “loading” local NXX codes into Missouri Small ILEC end offices – must still provide for transport of call from Missouri Small ILEC’s end office to wireless carrier’s POP, at the RBOC tandem, or through the RBOC tandem to another ILEC’s territory.
- Missouri Small ILECs have neither facilities nor certificate/tariff authority to transport traffic beyond their local exchange boundaries – all such calls (i.e., interexchange traffic) are carried by IXC’s (to whom the end-user is presubscribed).

Missouri Small ILECs do not have interconnection agreements with the RBOC or with other larger ILECs where wireless NXX’s may be located, consequently they have no

contractual means to use these facilities to transport traffic either for virtual NXX numbers or for porting calls beyond the local rate center. Negotiations are likely to be difficult because of differing views on responsibilities for transiting traffic. RBOC's contend that "transiting" traffic is not subject to UNE requirements and should be compensated for at "market-based" transit rates.

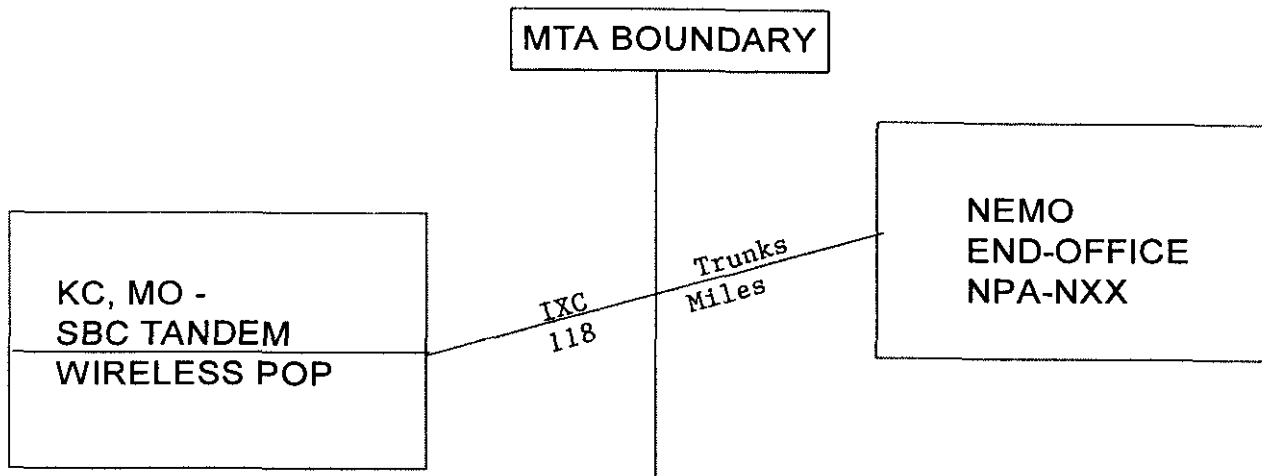
4. **WIRELINE-WIRELESS LOCAL NUMBER PORTABILITY  
IMPLEMENTATION, CC DOCKET 95-116**

- Similar issue to Virtual NXX issue.
- Customer wants to port his/her wireline telephone number to wireless carrier.
- Wireline telephone number is rate-centered in Missouri Small ILEC's end office, but wireless carrier's facilities are located in RBOC's or other ILEC's territory, which may be hundreds of miles away. Calls may need to be routed through the RBOC tandem to a second ILEC network for delivery to wireless carrier LERG point of connection.
- Not simply a matter of "porting" number (i.e., changing software in switch) - must also provide for transport of associated call from Missouri Small ILEC's end-office to wireless carrier's POP (see MTIA map and diagram).

Missouri Small ILECs have neither facilities nor the certificate/tariff authority to transport traffic beyond their local exchange boundaries. Missouri Small ILECs have no interconnection or transiting agreements with RBOC or other ILECs to carry such traffic as there has been no need for such contracts. Negotiations are likely to be difficult because of differing views on responsibilities for transiting traffic. RBOC's contend that "transiting" traffic is not subject to UNE requirements and should be compensated for at "market-based" transit rates.

- Sprint says direct connection to small rural ILECs cannot be cost-justified, given small amount of traffic. Yet, Sprint expects small ILECs to bear those "unjustified" costs to port numbers and calls to Sprint's facilities hundreds of miles away.

## DIAGRAM



- NEMO (Northeast Missouri Rural Telephone Company) is LEC - provides service only within its exchange(s)
- NEMO has no facilities outside its exchange(s) to provide interexchange service
- NEMO has no certificate or tariff authority to carry traffic outside its exchange(s)
- All calling by NEMO end-users to KC, MO is long distance (dialed 1+) and carried by IXCs

# MISSOURI

Incumbent Local Exchange Carriers

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NOTE: THIS MAP IS INTENDED TO PROVIDE A GENERAL  
OVERVIEW OF THE MISSOURI LOCAL EXCHANGE CARRIER  
BOUNDARIES AND SERVICE AREAS. IT IS NOT TO BE CONSIDERED A MAJOR SOURCE OF THE  
LEGAL BOUNDARIES BETWEEN TWO EXCHANGES.

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